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Robert T. Baum

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EXAMINER

LIPMAN, JACOB

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/616,449
Filing Date: July 08, 2003
Appellant(s): BAUM, ROBERT T.

Michael P. Straub
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 16 December 2009 appealing from the Office action mailed 28 May 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief was correct, but the rejection of claim 7 is being dropped.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is partly correct. Rejection of the claim 7 has been withdrawn and the claim is now allowed.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,684,250	Anderson et al.	1-2004
2004/0249975	Tuck et al.	12-2004
2002/0165835	Igval	11-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a-n international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 2, 3, 5, and 16, 17 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Tuck et al., USPN US 2004/0249975.

With regard to claim 2, Tuck discloses a security method (0013) for use in a communication system ([0040]), the method including receiving an IP packet including a source address and a destination address ([0055], [0061]), obtaining physical location information indicating the location of a user device which is the source of said IP packet ([0081]), prior to delivery of the packet to the destination address ([0056]), wherein the determining the location of the user device further includes performing a database lookup operation to retrieve a geographic location stored in association with edge router

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and port information ([0054]-[0056]), determining, as a function of the obtained physical location information, an action to be taken ([0116]), and comparing the obtained physical location information to the information listing physical locations authorized to obtain access to a service for which security is to be provided ([0013]).

With regard to claims 3, 5, 17, and 32 Tuck discloses dropping the packet, and reporting an error if the location does not match ([0017]), and forwarding it if it does ([0119]).

With regard to claim 16, Tuck discloses applying security based on requested resource and the user attempting to access it ([0013]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 18, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuck in view of Anderson et al., USPN 6,684,250.

With regard to claims 4 and 18, Tuck discloses the method of claim 2, as outlined above, but does not disclose the specific service being requested. Anderson discloses one content is video on demand (column 1 lined 20-22). It would have obvious for one of ordinary skill in the art to apply the firewall of Tuck to the video system of Anderson to protect it from intrusion.

With regard to claims 33 and 34, Tuck discloses the method of claim 32, as outlined above, but does not mention notifying the police. The examiner takes official notice that it is well known to inform the police about possible fraud. It would have been obvious for one of ordinary skill in the art to notify the police when detecting fraud in Tuck and to give them all known information, for the motivation of enforcing justice.

With regard to claim 35, Tuck discloses using the MAC address ([0012]).

Claims 9-13, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tuck in view of Anderson in further view of Igval, USPub 2002/0165835 A1.

With regard to claim 9-13, 36, and 37, Tuck in view of Anderson discloses conducting a fraud check, but does not disclose a scheduled location-reporting message. Anderson does not disclose tracking the location or movement of a specific device, but is interested in the location of a message origin. Igval discloses using a geographical locating system, ([0027]) to determine if a device is in an expected location, and checking for a stolen meter and informing the authorities of its unexpected location ([0028]). It would have been obvious for one of ordinary skill in the art to use the method disclosed by Tuck to protect the postage meter of Igval, for the stated motivation of Igval of locating the device ([0027]). Further, just as Igval wishes to insure postage meters are located in the proper area; it would have been obvious to apply this check by any device that has an expected area.

Allowable Subject Matter

Claim 7 is allowed.

(10) Response to Argument

With regard to applicant's argument that Tuck does not disclose identifying a location using "edge router and port information", the examiner points out that the claims do not claim this limitation. The claims rather only state that the location is stored in association with edge router and port information, which Tuck discloses ([0054]-[0056]). Further, Tuck discloses that the NIC card is associated with edge router and port information (0043). Applicant admits that the NIC number is used to identify location. Claim 7 does include this limitation, and thus the rejection of claim 7 is dropped.

With regard to applicant's argument that Tuck does not teach comparing the location with an expected location to authorize access, the examiner points to 0017-0019 of Tuck. While applicant acknowledges that the examiner points to these paragraphs in his arguments, he only quotes paragraph 17 in his arguments. The examiner points out that paragraph 18 states, "Thus, as well as MAC address determined services, the client node may be provided with location specific services, such as location specific web page content". It is unclear why applicant does not include this part of paragraph 18, other than the fact that it does not support his arguments. Tuck discloses in this paragraph that location determines access to specific content,

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thus that there is specific content for specific locations, and the requesting device's location is checked to see what content is authorized for that area.

With regard to applicant's argument (claim 7) that Tuck does not disclose determining location from router and port information, the applicant points to paragraphs 72 and 73 of Tuck, where Tuck states that the router and port information is location specific information, and is stored in the database, thus even though the NIC number is the primary way of determining location, the router number and port information is used to look-up a user.

With regard to applicant's argument that Tuck does not disclose transmitting a location information request using a source address, the examiner points out that this is the database look-up. As outlined above, Tuck discloses using a database look-up to identify the physical location of the device (0116).

The examiner contacted applicant about the dropped rejection of claim 7, and offered to make an examiner's amendment to add the limitation to the other independent claims. Applicant's proposed amendment did not add the limitation of claim 7 to the other independent claims, and thus was not entered.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jacob Lipman/

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Examiner, Art Unit 2434

Conferees:

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